

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE

CASE NO.: SC09-1182

N. JAMES TURNER

JQC Case No.: 09-01

**RESPONDENT'S RESPONSE TO FLORIDA JUDICIAL
QUALIFICATIONS COMMISSION'S MOTION TO COMPEL**

Respondent, Judge N. James Turner, by and through his undersigned counsel, responds to the Motion to Compel of the Judicial Qualifications Commission and says:

Requested Documents and Deposition Dates

At the outset, the Respondent wishes to stress that the issues relating to discovery do not result from any disrespect toward the Judicial Qualifications Commission or disregard for this process. Rather, the hurdles have been largely logistical, in that the Respondent is a sitting judge in Kissimmee, in Osceola County, and certain records relating to his campaign are not readily accessible during ordinary working hours. The records produced have been voluminous, and the Respondent, in an effort to provide assistance to the JQC, ensured that the scanned documents provided were Bates stamped for easy reference. There is no bad faith on the part of the Respondent (or Special Consulting Counsel), but there

is significant effort involved in ascertaining, assimilating and providing the information that is truly sought and actually available.

Undersigned counsel has continued to communicate and work with the Special Consulting Counsel to provide the requested information. The correspondence attached to the Motion to Compel suggests that communication was not taking place in regard to discovery. In fact, less formal communication was taking place, via email and telephone. Progress was made. Deposition dates have been agreed to, though some depositions have been postponed. Subsequent to the Motion to Compel, as referenced above, the Respondent provided a CD containing a pdf (scan) of approximately five hundred pages of responsive documents. Therefore, upon information and belief, the Respondent has complied with the JQC's discovery requests that relate to deposition dates and documents. Accordingly, this response is directed primarily toward the Respondent's Answers to Interrogatories.

Answers to Interrogatories

The Respondent is required to execute his interrogatory answers under oath. It is the Respondent's position that the conduct in which he is alleged to have engaged, if proven, does not warrant significant discipline if any discipline at all. Providing an interrogatory answer that ultimately may be disputed by witness

testimony subjects the Respondent to accusation of dishonesty, an accusation which has yet to be made – and which cannot in good faith be made -- against Respondent.

To a large extent, the JQC's interrogatories would require Respondent to speculate or give highly qualified responses. It is debatable which would be more helpful (or perhaps more useless) to the JQC – the brief responses already provided, or rambling qualified responses that require the Respondent to call on his memory, engage in conjecture, repeat hearsay, and generally to provide information and evidence which is not of a quality to be probative to the issues involved in the case. The undersigned counsel understands that the standard for appropriate discovery is whether the information sought is reasonably calculated to lead to the discovery of admissible evidence. But at the same time, providing information without concrete direct knowledge (such as speculation as to what witnesses may or may not know) could mislead the JQC more than help it.

Special Consulting Counsel, in the Motion to Compel, sets forth an appropriate point. It could not, it argues, reasonably be expected to “track down and interview in person no less than 66 paid campaign workers.” (paragraph 10) In response, the Respondent respectfully suggests that as in any campaign or organization of any size or magnitude, there is a chain of command, and that the

person at the top may very well not know the people lower down the organizational chain. The answers that the JQC seeks can be derived from the upper level campaign workers, which are identifiable by the amounts they were paid in the Respondent's exhibits to his interrogatory answers. But neither can the Respondent reasonably be expected readily to track down all 66 campaign workers, when others within his campaign were the primary contacts for and managers of such workers.

It is not an impossible task, but it is a task that requires the Respondent to reach out to key witnesses. In order to answer the interrogatories with the detail that Special Consulting Counsel seeks, Judge Turner would be required to make direct contact and speak with a number of potential witnesses whom the JQC might hope would yield fruitful information. Yet should he make such contact, Judge Turner then exposes himself to an accusation of witness tampering, something much more serious than the conduct which has been alleged to date. Once again, a potential misstep during this litigation could prove more costly to the Respondent than the underlying conduct with which he is charged.

The undersigned counsel invites Special Consulting Counsel to reply to this Response setting forth in detail what information is still required of the Respondent, as well as what is deemed proper in terms of the Respondent speaking

with the disclosed witnesses. The Respondent does not oppose an order compelling him to provide supplemental interrogatory answers. In fact, such an order would provide protection to the Respondent *to the extent it directs, in detail, the extent to which he should speculate in his interrogatory answers and the extent to which he should attempt to speak with the various witnesses in order to gather information for the JQC.*

In summary, the Respondent believes that he has substantially complied with the requests for deposition dates and documents. He affirmatively states his willingness to supplement interrogatory answers within a reasonable time, upon being provided direction in terms of the information still being sought, and the JQC's expectation as to the efforts in which he may properly engage to secure such information.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished this 1st day of December, 2009, to the persons on the attached Service List.

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